

MAINE STATE HARNESS RACING COMMISSION

MINUTES OF MEETING

August 26, 2015

Gambling Control Board Conference Room

Department of Public Safety Building

45 Commerce Drive, Augusta, Maine

Commission Members Present: Barbara Dresser, Chair, Gary Reed, and William McFarland.

Commission Member Absent: Dirk Duncan.

Staff Members Present: Ron Guay, AAG, Henry Jennings, Carol Gauthier, Miles Greenleaf and Zachary Matzkin, DVM

Department Members Present: Josh Panek, Aimee Carlton, Ellis Additon, and Mari Wells

**1. Call the Meeting to Order and Introductions:** Barbara Dresser, Chair

**2. Approval of Minutes**

Commissioner Reed made a motion to approve the February 26, 2015 minutes as written.

Commissioner McFarland seconded. Vote 3-0.

Commissioner McFarland made a motion to approve the March 13, 2015 minutes as written.

Commissioner Reed seconded. Vote 3-0.

**3. Executive Director's Report**

Mr. Jennings gave an overview of his background in State Government.

**4. Review and Approve Written Decision and Orders**

Commissioner Dresser asked for a motion to approve the decision and order for Philip Sowers, Jr. Commissioner Reed made a motion to accept and approve the decision and order for Philip Sowers, Jr. as presented. Commissioner McFarland seconded. Vote 3-0.

Commissioner Dresser asked for a motion to approve the decision and order for Stephen Murchison Complaint 2015 MSHRC 021. Commissioner McFarland made a motion to accept the decision and order as written for Stephen Murchison. Commissioner Reed seconded. Vote 3-0.

Commissioner Dresser asked for a motion to approve the decision and order for Valerie Grondin Complaint 2014 MSHRC 0031. Commissioner Reed made a motion to accept and approve the decision and order as presented. Commissioner McFarland seconded. Vote 3-0.

Commissioner Dresser asked for a motion to approve the decision and order for Valerie Grondin Complaint 2015 MSHRC 0016. Commissioner McFarland made a motion to accept and approve the decision and order as written. Commissioner Reed seconded. Vote 3-0.

Commissioner Dresser asked for a motion to approve the decision and order for Rodney Grady Complaint 2015 MSHRC 0014. Commissioner Reed made a motion to accept and approve the decision and order as written. Commissioner McFarland seconded. Vote 3-0.

Commissioner Dresser asked for a motion to approve the decision and order for Elizabeth Chenard Complaint 2015 MSHRC 006. Commissioner McFarland made a motion to accept

the decision and order as written. Commissioner Reed seconded. Vote 2-1. Commissioner Dresser abstained from the vote.

**5. Adjudicatory Hearings:**

- a. RE: Michael Cayouette, Complaint Number 2015 MSHRC 037.** Mr. Cayouette is alleged to have violated MSHRC Rules Chapters 7 and 11. Mr. Cayouette is the trainer of record of “Bens Beach Boy”. A blood sample obtained from Bens Beach Boy following the First Race on June 12, 2015 at Bangor Raceway disclosed the presence of Flunixin. Mr. Cayouette was present. AAG, Guay was the hearing officer. Ms. Wells represented the Department. AAG, Guay asked Mr. Cayouette if he stipulated to the fact that he was the trainer of record of Bens Beach Boy on June 12, 2015 and that the horse raced in the first race on June 12, 2015. Mr. Cayouette stated yes. Ms. Wells presented the following exhibits. Exhibit 1, Notice of Hearing; Exhibit 2, Owner/Driver/Trainer’s application; Exhibit 3, Race Program; Exhibit 4, Chain of Custody Tag; Exhibit 5, Shipment List; Exhibit 6, Preliminary test results; Exhibit 7, Confirmation of test results and Exhibit 8, Positive test results sent to Mr. Cayouette. AAG, Guay admitted exhibits 1 through 8. Mr. Cayouette testified. AAG, Guay closed the hearing. Commissioner Dresser asked for a motion. Commissioner Reed made a motion that the Commission has found that there has been a finding of a violation of the trainer responsibility rule. Commissioner McFarland seconded. Vote 3-0. AAG, Guay stated to Mr. Cayouette that this is the time to persuade the commission regarding his penalty. Mr. Cayouette testified. AAG, Guay closed the penalty phase of the hearing. Commissioner Dresser asked for a motion. Commissioner McFarland made a motion of a \$200 fine with all but \$50 suspended and a written notice go to the owner of the horse. Commissioner Reed seconded. Commissioner Dresser stated that she would suggest just a written warning to be consistent with others with a first offense. Commissioner Reed made a motion that the pending motion be amended to impose a penalty of a written warning to the trainer. Commissioner McFarland seconded. Vote 3-0.
- b. RE: Robert McNeil, Complaint Number 2015 MSHRC 040.** Mr. McNeil is alleged to have violated MSHRC Rules Chapters 7 and 11. Mr. McNeil is the trainer of record of “Magical Alex”. A blood sample obtained from Magical Alex following the Eighth Race on June 19, 2015 at Bangor Raceway disclosed the presence of Flunixin. Mr. McNeil was present. AAG, Guay asked Mr. McNeil if he stipulates to the fact that he is the trainer of record of the horse Magical Alex, and that the horse raced in the eighth race on June 19, 2015; and that he violated the trainer responsibility rule. Mr. McNeil responded with a yes to all three questions. Ms. Wells presented exhibits. Exhibit 1, Notice of Hearing and Exhibit 7, Lab results. AAG, Guay admitted these exhibits without objection from Mr. McNeil. Mr. McNeil testified. AAG, Guay closed the hearing. Commissioner Dresser asked for a motion. Commissioner McFarland made a motion to assess the trainer a written warning. Commissioner Reed seconded. Vote 3-0.
- c. RE: Robert Lamarre, Complaint Numbers 2015 MSHRC 035 and 2015 MSHRC 036.** Mr. Lamarre is alleged to have violated MSHRC Rules Chapters 7 and 11. Mr. Lamarre is the trainer of record of “Big Z Class”. Blood samples obtained from Big Z Class following the Ninth Race on June 9, 2015, and the Seventh Race on June 16, 2015, at Bangor Raceway disclosed the presence of Flunixin. Mr. Lamarre was present. AAG, Guay asked Ms. Wells how the State is going to treat these two instances. Ms. Wells stated that these would be treated as two instances one violation.

AAG, Guay instructed Mr. Lamarre that even though the State is treating these two instances as one violation, the Commission may or may not agree with the State. With that knowledge, both parties still agree to do both alleged violations in one hearing. AAG, Guay asked Mr. Lamarre if he stipulates to the fact that he is the trainer of record of the horse Big Z Class on June 9, 2015; and that the horse finished first in the ninth race on June 9, 2015 at Bangor Raceway; and that he admits to violating the trainer responsibility rule. Mr. Lamarre stated yes to all three questions. AAG, Guay asked Mr. Lamarre if he stipulates to the fact that he is the trainer of record of the horse Big Z Class on June 16, 2015; and that the horse finished first in the seventh race on June 16, 2015 at Bangor Raceway; and that you violated the trainer responsibility rule. Mr. Lamarre stated yes to all three questions. Ms. Wells presented exhibits to both complaints as Exhibit S1 MSHRC 035, Notice of Hearing and Exhibit S7 MSHRC 035, Lab results and Exhibit S1 MSHRC 036, Notice of Hearing and Exhibit S7 MSHRC 036. Mr. Lamarre testified. AAG, Guay closed the hearing. Commissioner Dresser asked for a motion. Commissioner Reed made a motion that they issue a written warning to both the trainer and owner. Commissioner McFarland seconded. Vote 3-0.

- d. **RE: Marissa Tyler, Complaint Number 2015 MSHRC 039.** Ms. Tyler is alleged to have violated MSHRC Rules Chapters 7 and 11. Ms. Tyler is the trainer of record of “I’m A Lucky Man”. A blood sample obtained from I’m A Lucky Man following the First Race on June 25, 2015, at Scarborough Downs disclosed the presence of Methocarbamol. Ms. Tyler was present. AAG, Guay asked Ms. Tyler if she admits to the fact that she is the trainer of record of I’m A Lucky Man on June 25, 2015; and that the horse finished third in the first race at Scarborough Downs on June 25, 2015; and that you violated your trainer responsibility duties. Ms. Tyler stated yes to all three questions. Ms. Wells presented Exhibit 1, Notice of Hearing and Exhibit 7, Lab results. AAG, Guay admitted them without objection from Ms. Tyler. Mr. Petrelli, Mr. Tyler and Mr. Jennings testified. AAG, Guay closed the hearing. Commissioner Dresser asked for a motion. Commissioner Reed made a motion to a \$1,000 fine and a 15 day suspension. Commissioner McFarland seconded. After a brief discussion, Commissioner Reed amended his motion to include the loss of purse from the owner. Vote 2-1. Commissioner Dresser opposed.

- e. **RE: Shawn Thayer, Complaint Numbers 2015 MSHRC 007, 2015 MSHRC 010, 2015 MSHRC 011, 2015 MSHRC 013, and 2015 MSHRC 015.** Mr. Thayer is alleged to have violated MSHRC Rules Chapters 7, 11 and 17. Mr. Thayer is the trainer of record for “Inthenameofjames”, “Born That Way”, “Yummy Sushi and “Forever Wild”. Blood samples obtained from these horses at the Bangor Raceway on the following dates all disclosed the presence of Clenbuterol, a Class III Drug:

- Inthenameofjames following the Fourth Race on May 5, 2015
- Born That Way following the Third Race on May 18, 2015
- Yummy Sushi following the Ninth Race on May 19, 2015
- Forever Wild following the Seventh Race on May 22, 2015, and
- Born That Way following the Eighth Race on May 25, 2015

Mr. Thayer was present. Mr. Rancourt represented Mr. Thayer. AAG, Guay opened the hearing on Mr. Thayer. Ms. Wells stated that they will treat the 5 violations as one violation. AAG, Guay asked Mr. Thayer if he admits to the fact that he violated his trainer responsibility duties for these 5 complaints. Mr. Thayer stated yes. Ms. Wells presented the exhibits for Complaints 2015 MSHRC 010, 011, 013 and 015 as: Exhibit S1, Notice of Hearing; Exhibit S2, Owner/Driver/Trainer application; Exhibit

S3, Program; Exhibit S4, Chain of Custody Tag; Exhibit S5, Shipment List; Exhibit S6, Preliminary Lab Result; Exhibit S7, Confirmation of the lab results and Exhibit S8, Notice of Positive Test. AAG, Guay admitted the exhibits without objection from Mr. Rancourt. Ms. Wells presented the exhibits S1 through S6 as the same as previously entered. She also presented Exhibit S7 as the Sample Procedure from HGC Labs; Exhibit S8, Confirmation of lab results and Exhibit S9, Notice of Positive Test. AAG, Guay admitted exhibits S1 through S9 without objection from Mr. Rancourt. Mr. Rancourt presented Exhibit Licensee-1, The Maine State Harness Racing Commission Guidelines. AAG, Guay admitted the exhibit without objection from the State. Mr. Thayer, Dr. Ruksznis, Mr. Greenleaf and Mr. Reynolds testified. AAG, Guay closed the hearing. Commissioner Dresser asked for a motion. Commissioner Reed made a motion to assess a fine of \$500 with all but \$100 suspended for the trainer and the return of the purse for all 5 instances. Commissioner McFarland seconded. After a brief discussion, Commissioner Dresser stated that the motion be changed to deal only with the trainer. Commissioner Reed amended his motion to assess a fine of \$500 with all but \$100 suspended. Commissioner McFarland seconded. Vote 3-0.

- f. **RE: Shawn Nye, Complaint Number 2015 MSHRC 038.** Mr. Nye is alleged to have violated MSHRC Rules Chapters 7 and 11. Mr. Nye is the trainer of record of “Kayla’s Sophia”. A blood sample obtained from Kayla’s Sophia following the First Qualifier Race on June 23, 2015, at Bangor Raceway disclosed the presence of Methocarbamol. Mr. Nye was present. AAG, Guay asked Mr. Nye if he stipulated to the fact that he was the trainer of record for the horse Kayla’s Sophia, and that the horse finished first in the first qualifier race on June 23, 2015; and did you violate the trainer responsibility rule. Mr. Nye responded with yes for all three questions. AAG, Guay stated that the state can admit exhibits 1 and 7 for the record. Exhibit 1, Notice of Hearing and Exhibit 7, Lab results. No objection from Mr. Nye. Mr. Nye testified. AAG, Guay closed the hearing. Commissioner Dresser asked for a motion. Commissioner Reed made a motion that a violation has taken place and the penalty be levied at \$500 fine with all but \$50 suspended. Commissioner McFarland seconded. Vote 3-0.

6. **Commission Budget Review Continued.**

**Pursuant to 8 MRS Section 267, the Commission will continue its hearing to make findings regarding and develop any revisions to its budget for the second fiscal year of the biennium.** Commissioner Dresser asked Mr. Jennings to start the discussion. Mr. Jennings stated that Ms. Carlton will answer any questions on any revisions. Ms. Carlton gave a presentation of what was asked of the Department to explain. AAG, Guay closed the hearing. Commissioner Dresser asked for a motion pursuant to 8 MRS Section 267 that the finding that the budget is adequate. Commissioner Reed made a motion that the Commission find that the budget as presented is adequate. Commissioner McFarland seconded. Vote 3-0.

7. **Other Business**

None.

8. **Public Comment**

Mr. Petrelli addressed the Commission regarding drugs and penalties.

Ms. Perkins was pleased with the Sire Stakes Program. A 3 year old stake horse broke the record in Bangor.

Mr. Sweeney asked about the rules the Stakes Advisory Committee had worked on.

Commissioner Dresser asked Mr. Gravel to remove the document regarding guidelines from their website. Mr. Gravel stated that has already been done.

Mr. Gravel, MHHA, asked why the OTB's are not opened during live racing. Commissioner Dresser stated that Mr. Jennings would look into that issue.

**9. Schedule of Future Meetings**

September 9, 2015, October 14, 2015

**Adjourn:** 1:45 p.m.